

Summary Judgment

Exhibit D

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF NEW YORK

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4 **DOUGLAS J. HORN and CINDY HARP-HORN,**

5 Plaintiffs,

6 -vs-

Civil Action No.: 15-cv-701-FPG

7 **MEDICAL MARIJUANA, INC., DIXIE ELIXIRS AND**
8 **EDIBLES, RED DICE HOLDINGS, LLC, and DIXIE**
9 **BOTANICALS,**

Defendants.
10 -----

Examination Before Trial of **CINDY**

11 **SUE HARP-HORN,** held before Marissa A.

12 Ashcroft, Notary Public, at MURA & STORM,
13 PLLC, 930 Rand Building, 14 Lafayette Square,
14 Buffalo, New York, on May 9th, 2017 at 10:56
15 a.m., pursuant to notice.
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716-853-5544

CINDY SUE HARP-HORN - BY MR. BORON - 05/09/17

1 A. I did.

2 Q. Why did you believe that?

3 A. That was one of the claims that Dixie X
4 claimed on their website.

5 Q. Which Dixie X -- which website are you talking
6 about? Do you have like the --

7 A. I don't have the URL. It was the actual Dixie
8 X website where I went to order the product.

9 Q. The same website that you ordered this product
10 on is --

11 A. Correct.

12 Q. -- where you saw this information --

13 A. Correct.

14 Q. That you perceived that it was communicating
15 that this product would help you with neck
16 pain?

17 A. Correct.

18 Q. And do you have any record -- did you bring
19 any record with you today or yesterday that
20 shows that you accessed the Dixie X website
21 and got this information?

22 A. I don't have that today.

23 Q. Did you have it here yesterday in that bag of

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CINDY SUE HARP-HORN - BY MR. BORON - 05/09/17

1 materials that you brought?

2 A. I did not.

3 MR. HOUSH: Object to form.

4 Q. Did you make a screen print of any information
5 that you looked at on the Dixie X website?

6 A. I did and I handed that over to Mr. Benjamin.

7 Q. Were those screen prints after your husband
8 had tested dirty?

9 A. I honestly cannot say.

10 Q. Were there dates printed on the bottom
11 right-hand corner of the screen prints you
12 were making?

13 A. I cannot say.

14 Q. Is it because you can't recall or you don't
15 want to hurt your case by answering the
16 question?

17 MR. HOUSH: Object to form.

18 A. I can't recall.

19 Q. Okay. So if we were to show you screen prints
20 that have dates in the bottom right-hand
21 corner would you have any reason to think that
22 your screen prints were not printing dates in
23 the bottom right-hand corner?

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CINDY SUE HARP-HORN - BY MR. BORON - 05/09/17

1 A. Correct.

2 Q. Okay. Now with respect to the Dixie X
3 product, yesterday your husband testified that
4 there was some research done about the Dixie X
5 product before it was purchased?

6 A. Correct.

7 Q. Were you the person that actually purchased
8 the product?

9 A. Correct.

10 Q. How did you purchase it? With a credit card
11 transaction?

12 A. I believe so.

13 Q. Did you have to go online to make the
14 purchase?

15 A. Correct.

16 Q. Put the order in?

17 A. Correct.

18 Q. What website did you go on to purchase the
19 product?

20 A. DixieX.com.

21 Q. What day did you purchase the product?

22 A. I'm not sure.

23 Q. Okay. Would it refresh your memory if we

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CINDY SUE HARP-HORN - BY MR. BORON - 05/09/17

1 Q. And in the upper right-hand corner the box for
2 termination is checked?

3 A. Correct.

4 Q. In the type of termination box about halfway
5 down on the left side it says resigned,
6 there's a box checked resigned?

7 A. Correct.

8 Q. Does this perhaps reflect that you voluntarily
9 resigned from your position at Enterprise?

10 A. Correct.

11 Q. When did you make the decision to resign?

12 A. In January.

13 Q. And is it correct when it says last day worked
14 November 16, 2012?

15 A. That's not correct.

16 Q. What was your last day worked?

17 A. It was -- it was in October.

18 Q. Before the dirty drug test?

19 A. No, it was after because I had to drive from
20 Dumas, Texas to Avenel.

21 Q. Okay.

22 A. And I drove solo.

23 Q. And that would be the last day you worked

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CINDY SUE HARP-HORN - BY MR. BORON - 05/09/17

1 Q. How much would you have made if you went ahead
2 and went down there yourself and began to
3 drive?

4 A. Like I said, it's on per barrel. Some of the
5 guys were making 2,000 a week solo. Some guys
6 were making \$2400 a week solo and some were
7 making less.

8 Q. And that offer was still there and open for
9 you to accept if you guys wanted to even if
10 your husband was terminated?

11 A. It was.

12 Q. You decided you didn't want to do that work?

13 A. No, I'd be working around a lot of men and I'd
14 be in isolation. There were no other women
15 down there and Corpus Christi is not down by
16 Victoria.

17 Q. Did you have another income stream to fall
18 back on at that point in time?

19 A. We did not.

20 Q. So you opted to resign, right?

21 A. I did.

22 Q. And you had no job to go to, correct?

23 A. I did not.

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CINDY SUE HARP-HORN - BY MR. BORON - 05/09/17

1 company made a special position for Cindy
2 because I was fired. Was your husband typing
3 this, but sending it out through your e-mail?

4 A. Probably.

5 Q. Did you type any of this information up?

6 A. I don't -- I don't remember.

7 Q. Okay. What was the special position that the
8 company made for you because your husband was
9 fired?

10 A. What I told you earlier, going down to Corpus
11 Christi on my own.

12 Q. Okay.

13 A. And Victoria, Texas.

14 Q. Is it accurate what it says the wage then
15 would have been 100,000 to 124,000 a year?

16 A. Correct.

17 Q. Okay. So that's what you -- that's what you
18 decided not to take -- you decided not to take
19 that much, making 100,000 to 124,000 a year?

20 A. I decided not to.

21 Q. Okay. There's also a reference just earlier
22 in that same first paragraph that says, if I
23 would not have been fired we were waiting on

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